



Legislative Update

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Secretary Miyahara Resigns from the Department of Health

On March 23, 1998, Bruce Miyahara announced his resignation as Secretary of the Department of Health, effective June 1, 1998. The following are excerpts from his resignation letter to Governor Locke, which discusses the Department of Health's accomplishments.

"Dear Governor Locke:

This past year has been a satisfying mix of professional challenges and substantial accomplishments as a member of your cabinet, and I know I have contributed to the success of your first year as Governor. However, after five years in this position, the responsibilities of the appointment in addition to three-hour commutes between Seattle and Olympia have taken their toll. I need a change to re-energize.

Below, I will briefly list some of the more notable as well as some of the less visible accomplishments of the Department of Health these past five years.

I, in no way, want to take personal credit for all the things I'm including in this letter. The hard work of hundreds of dedicated people both within the Department of Health and in partnership with the Department has resulted in improving and better protecting the health of the people of this state.

Accomplishments:

- Development of the Public Health Improvement Plan (PHIP) and its principles emphasizing information-based decision-making, problem-solving, evaluation and accountability.

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With this edition of Legislative Update, we kick off our coverage of legislative activities during the interim. Among the interim activities we'll cover are rule development and reports mandated by billspassed last session; interim studies conducted by the Department and legislative committees; and development of the Department's request legislation and 1999-2001 budget. Although the 1998 session just recently came to a close, the 1999 session is only 269 days away! We hope our interim updates help you be ready.

Miyahara Resignation *(con't)*

- Improved immunization rates for two-year olds.
- Production of the Health of Washington State report.
- Improved relationships between the State and Counties with respect to management of public health.
- Participation in the creation of the American Indian Health Care Delivery Commission.
- Developing recognition of the Department's role in improving access and quality of the overall health care system.
- Improved housing conditions for farmworkers in this State, including over 2,000 licensed beds created through a pilot project, stimulation of construction of over 700 community-based beds in conjunction with private financing, and over \$2 million of new private investments as a result of the sales tax exemption.
- Posting of a surety bond which will assure decommissioning and reclamation of the Dawn Mining uranium mill.
- Streamlining the Department with the consolidation of four divisions into two -- Community and Family Health, and Health Information and Epidemiology.
- Controlling the growth of FTE's while increasing services and resources available to the public.
- Development of the Information Network for Public Health Officials (INPHO).
- Completion of the department's Information Resource Management Strategic Plan.
- Successfully managed with local health departments numerous outbreaks or health concerns across the state including E. coli, hepatitis A, measles, whooping cough, meningitis, hantavirus, rabies in bats and tuberculosis to name a few.

Department of Health Strategic Initiatives

Finally, I would like to leave you with recent efforts of the Department of Health to focus on a limited number of strategic initiatives to protect and improve the health of the public as well as support your agenda.

- Healthy children, ready and able to learn. Children can't learn if they're not healthy and can't stay healthy if they're not educated. Superintendent Bergeson and the Department of Health believe that we have mutually-related visions and are working on a joint agenda beginning with student health services.
- Safe and effective child care. With increasing dependence on child care, we need to assure that facilities are safe. There are critical programs that can stimulate early brain development and begin the educational process.
- Healthy aging. With the aging of the population, there will be increasing demands on health care, chronic care, and residential care programs. We can anticipate these challenges now, and must re-evaluate our policies and prevention strategies. Initiative 601 constrains the State in dealing with the aging demographics of our population and we must be prepared.
- Emerging infectious diseases are both a state and national issue. We must continue to assure that this state's public health infrastructure and programs have the necessary capacity to protect the public's health.
- Assure an adequate supply of safe drinking water.
- Enhanced food safety for the public.

Again, it has been a pleasure being a part of your administration. I wish you well in dealing with the serious business of the State."

Sincerely,

Bruce Miyahara
Secretary §

Department Begins Work on Reports and Rulemaking

The Governor has signed into law a number of bills requiring the Department of Health to report back to the Legislature on a variety of topics, from on-site certification to at-risk youth. Preliminary work, such as identifying the issues to be addressed, stakeholders and affected parties, is beginning now. Work will continue throughout the summer and fall. The reports will be submitted to the Office of Financial Management for review before they are sent to the appropriate Legislative committee. The reports and their deadlines are set in Table 1.

Reports Required By 1998 Legislation			
Bill #	Subject	Lead Division	Date Due
2556 PL	Child Abuse Prevention & Treatment Act	CFH	11/1/98
3103 PL	Newborn Screening for Exposure to Harmful Drugs	CFH	12/1/98
3056 PL	Implementing Recommendations of the On-Site Certification Workgroup	EHP	12/1/98
6208 PL	At-Risk Youth	EHS/LAB	12/1/98
2788 PL	Training Nursing Assistants	HSQA	12/12/98
2364 PL	Administrative Procedures/Health Professions	HSQA	3/1/99
2345 PL	Regulatory Reform	REGULATORY	7/1/02

In addition, nine newly enacted bills require the Department to engage in rulemaking. The first of these rules, regarding temporary worker housing, are required by December 31, 1998. Not all bills imposed such a compact timeline; rules regarding hearing instrument fitters and dispensers are not required to be effective until January 1, 2003. (see Table 2)

Rulemaking Required By 1998 Legislation			
Bill #	Subject	Lead Division	Rule Implementation Date
1867 PL	Food Sanitation & Safety	EHP	7/1/99
6474 PL	Fertilizer Regulation Act	EHP	
1618 PL	Impaired Physicians	HSQA	1/1/00
1769 PL	Electronic Transfer of Prescription Information	HSQA	1/1/99
2688 PL	Hearing Instrument Fitters and Dispensers	HSQA	1/1/03
2920 PL	Clarifying Continuing Education Requirements for Counselors	HSQA	
6168 PL	Farmworker Housing	HSQA	12/31/98
6545 PL	Provide Full Funding for Hearing Impaired Physicians Program	HSQA	1/1/00
6550 PL	Regulating Chemical Dependency Counselors	HSQA	7/1/99

Sunrise Review Workplan

The following are the Sunrise Review reports that will be conducted during the interim. These reviews have been requested by the Senate and House Health Care Committees and will be presented in January 1999. Please contact Steve Boruchowitz at (360) 753-0719 if you would like to participate in any of these reviews.

Sunrise Review Process Workplan		
Review Topic	Start	End
Vision Care (Optometrist and Opticians done simultaneously)	April-1998	July-1998
Naturopathic Scope	April-1998	October-1998
Osteoporosis Treatment and Prevention	April-1998	July-1998
Women's Health (Contraceptive and Maternity services simultaneously)	April-1998	September-1998
Mental Health (Parity and Eating Disorders done simultaneously)	July-1998	November-1998
Dental anesthesia	July-1998	October-1998
Rehabilitation Services (Medical and Chiropractic done simultaneously)	May-1998	November-1998

Bill Watch

Bill Watch this week contains bills that have been passed by both houses of the Legislature and have undergone executive action by Governor Locke. *Sine Die* for the 1998 Legislative session occurred Thursday, March 12th, the Governor completed his actions on April 3rd. Veto messages to the Legislature from the Governor are included after a description of the bill as it has become state law.

DATA AND CONFIDENTIALITY

SB 6329: Health Care Information Disclosure

Authorizes disclosure of health care information without patient's authorization to county coroners and medical examiners for the investigations of deaths. Chapter 158, Laws of 1998.

ENVIRONMENTAL HEALTH

2E2SHB 1354a: Air Pollution Control

Revises air pollution control provisions. Requires the Department of Ecology to establish a scientific advisory board to review plans to create or expand an inspection and maintenance system for motor vehicle emissions. Exempts from the requirements for emission inspection collector cars as identified by the department of licensing under RCW 46.16.305(1), or beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old. Requires Ecology to evaluate changes to the motor vehicle

emission inspection program and to recommend changes to the legislature by January 1, 1999. Chapter 342, Laws of 1998.

SHB 1692: Port District Aquatic Lands

The only lands that may be included in a port district aquatic lands management agreement are those state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a port district. Upon request of a city, the department and city may enter into an agreement authorizing the city to manage state-owned aquatic lands for the purpose of operating a publicly owned marina. Directs the development of a proposed model management agreement that shall be used as the basis for negotiating the management agreements required by this section. The model management agreement shall be reviewed and approved by the board of natural resources. Vetoed by the Governor for the following reasons: *"Substitute House Bill No. 1692 would change the authority of certain port districts to manage some state-owned aquatic lands, and provide new authority for cities to manage such lands. In both instances, the state would no longer receive lease payments for use of those aquatic lands managed by the ports or cities."*

"SHB 1692 raises significant issues regarding the management of state-owned aquatic lands, including the loss of lease revenue available for all of the people of the state, and whether it is appropriate to divest management

responsibilities over significant portions of these public trust lands to cities and ports.

"In light of changing economic circumstances that have increased lease rates, the Legislature has recognized the need for a comprehensive examination of management of state-owned aquatic lands, and specifically the issue of lease rates. I urge the Legislature to also review the issue of delegation of management authority for state-owned aquatic lands occupied by ports and cities."

SHB 1867a: Revising Provisions For Food Sanitation And Safety

Beginning July 1, 1999, the renewal period for food and beverage workers' permits is reduced from five to three years, unless the employee obtains additional food safety training. A limited-duty permit for disabled people is created. The local health officer specifies the activities that the permit holder may perform. This permit is recognized in all counties. It is specified that persons with contagious or infectious diseases that may be transmitted by food or beverage may not work in places where unwrapped or unpackaged food or beverages are prepared, consumed or sold. Health officers, by law, already restrict people with contagious diseases such as tuberculosis or chicken pox, which are not transmitted by food, from contact with the public in general.

The grace period to obtain a food and beverage service workers' permit is reduced from 30 to 14 days. Employers are required to provide information or training regarding safe food handling practices to employees prior to employment. Chapter 136, Laws of 1998.

EHB 2414a: Outdoor Burning Compliance

Cities with a population of less than 5,000 that are not within or contiguous with an area not meeting federal or state air quality standards must phase out outdoor burning by December 31, 2006. Chapter 68, Laws of 1998.

ESHB 2514a: Integrated Watershed Management

Allows discretion to local governments in how they may organize planning groups to assess local water supplies and needs and develop strategies to provide adequate water for economic prosperity and environmental protection while protecting existing water rights; review water quality problems and develop a strategy for achieving compliance with water quality standards; and formulate plans for protection and

enhancement of water-related wildlife and fish habitat. Chapter 247, Laws of 1998. Partially vetoed by the Governor for the following reasons: *"This bill has the potential to resolve the long-standing stalemate over setting in-stream flow levels in Washington and to resolve other important issues dealing with water quality and fish habitat. I commend the Legislature for its leadership in this regard."*

"ESHB 2514 makes a strong choice to rely on watershed planning processes to resolve these issues. Primary responsibility lies with the planning units authorized by this bill to meet the requirements of state and federal law..."

"ESHB 2514 has one problem in that tribal governments are relegated to a secondary role throughout the planning process, despite treaty rights and fishery co-management responsibilities. To address that problem, I am directing the Department of Ecology to consult with affected tribes, including those with usual and accustomed territory or ceded lands, before committing to obligate the state on any particular in-stream flow levels or other issues that affect tribal treaty rights and co-management responsibilities."

"Section 10 of this bill would prohibit the Department from establishing a moratorium on water right processing while planning is underway. In some select instances, the Department of Ecology may need to impose a moratorium on water right processing in order to preserve options for future water allocations by the watershed planning unit. Sections 11 through 14 would require that plans developed under this bill preempt water-related planning processes established under other statutes. This language would remove any flexibility of the state to use other authorities to correct any deficiencies that emerge from plans adopted under the process provided in this bill. If such plans turn out to be inadequate due to new information and situations, the state would be prohibited by these sections from correcting the problems."

HB 2537: Shellfish Sanitary Control

Provides that a person whose license or certificate of approval is denied, revoked or suspended as a result of violations of chapter 69.30 RCW may not participate to any degree in a shellfish operation. Chapter 44, Laws of 1998.

HB 2542: Rural Counties/Growth Management

Provides that a rural county that adopts a resolution removing the county, and the cities located within the county, from the requirement to plan under the Growth Management Act remains subject to the requirements

Bill Watch

for the designation and protection of critical areas and the designation of natural resource lands. Vetoed by the Governor for the following reasons:

"... We have seen great progress in counties that are planning under the GMA. Many of the counties who would be eligible to opt out under this bill have experienced rapid growth. Even in small rural counties, residents are concerned about growth and the loss of rural areas, and want to preserve the quality of life that attracted them to those areas in the first place. The GMA allows our communities to plan for good and efficient economic growth while preserving our state's spectacular natural features.

"This bill would go too far. It would allow some counties that have experienced rapid growth to opt out. In fact, with the exception of two counties, all of the counties that opted in would have been required to plan under the GMA anyway, as a result of their 10-year population growth factors being higher than 20%. This bill would also allow counties to opt out over the objections of their cities. Even in those counties that opted in, cities have invested tremendous amounts of time and money, and have made land use and capital decisions based on GMA. Cities must have a role in the counties' decision to opt out."

EHB 2791a: Methamphetamine Crimes

Provides that the manufacture or possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine in or near a residence in which a minor or a pregnant woman resides is a "most serious offense" under RCW 9.94A.030. Funds already deposited in the local toxic control account may be utilized for assessment, however funds from this program shall not be used for the initial containment of such a site. Chapter 81, Laws of 1998. Partially vetoed by the Governor for the following reasons: *"Section 1 of EHB 2791 defines as a "strike," under the Persistent Offender Accountability Act, the manufacture or possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine, when that crime occurs in or near a residence where a minor or pregnant woman resides. As I noted in vetoing a similar provision last year, we should not stray from the original intent of the three strikes law; the "strike" category should be reserved for the most serious violent and sex offenses, not for drug offenses. As dangerous as "meth labs" are, making possession of constituent chemicals a "strike" does little to protect public safety and opens the door to future inappropriate expansion of the "strike" list to other nonviolent conduct.*

"In addition, section 1 of EHB 2791 would not make it a

"strike" to operate a "meth lab," only to possess the precursor chemicals from which methamphetamine is made with intent to use them for that purpose. Someone who is starting up a "meth lab" would be committing a "strike," while someone closing it down after producing the drug would not be. Moreover, it would be very difficult years from now, when offenders might be subject to life sentences on the third "strike," to identify the past cases in which a child or pregnant woman may have been present.

"Representatives of law enforcement organizations have urged caution against the tendency to overreact with bills about crime. They believe it is more effective, and does more for public safety, to increase sentences for specific crimes in a measured, proportional way."

SHB 2960a: Authorizing Permits-By-Rule For Certain Solid Waste Recycling Facilities

The Department of Ecology is directed to continue to refine the recommendations contained in the 1997 review of the state's solid waste system, and submit a report to the Legislature by December 1, 1998. The report must address: the applicability of a permit-by-rule process for solid waste recycling facilities; consistency of permitting for regional, multi-jurisdictional recycling facilities; the application of best available control technology on a consistent basis; and methods of integrating facility standards with the recommendations of the study. Chapter 90, Laws of 1998.

SSB 5636a: Health Inspection Warrants

Revising health inspection warrants for local health officers in response to pollution in commercial or recreational shellfish harvesting areas. Requires the submission of specific evidence showing that it is reasonable to believe pollution is coming from the septic system on the property to be accessed. An administrative search warrant may be issued in response to pollution in shellfish harvest areas or in freshwater. Chapter 152, Laws of 1998.

ESB 6123: Animal Health

Designates the authority and responsibility of the director of agriculture to supervise the prevention of the spread and the suppression of infectious, contagious, communicable, and dangerous diseases affecting animals within, in transit through, and imported into the state. Chapter 8, Laws of 1998.

ESB 6139a: Amphetamine Penalties

A person convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver

amphetamine is guilty of a class B felony ranked at seriousness level VIII on the sentencing grid, punishable by 21 to 27 months imprisonment for the first offense. The maximum imprisonment is 10 years. The offender is also subject to a fine of no more than \$25,000 for an amount less than two kilograms. For amounts over two kilograms, the fine can be no more than \$100,000 for the first two kilograms nor more than \$50 for each gram over two kilograms. The first \$3,000 of the fines cannot be suspended and are sent to the law enforcement agency responsible for the site cleanup. Chapter 82, Laws of 1998.

SSB 6161: Dairy Nutrient Management

Establishes a credible registration and inspection program for dairy animal feeding operations to address the excessive discharge of nutrients or pollutants to waters of the state and lead to compliance by the industry with water quality laws. Maintains the administration of the water quality program as it relates to dairy operations at the state level. Clarifies the current coordination procedures and responsibilities between the Department of Ecology, the conservation commission, and conservation districts. Repeals RCW 90.64.005 and 90.64.090. Chapter 262, Laws of 1998. Partially vetoed by the Governor for the following reasons: *"Section 8 of SSB 6161 would create a Dairy Nutrient Management Program Advisory and Oversight Committee, consisting of governmental and non-governmental members. That committee would provide 'direction to and oversight of' the dairy nutrient management program. Clearly, the state can benefit from the advice and counsel of those who will be most affected by this bill. However, the dairy inspection program is a governmental program and must be carried out by the Department of Ecology, the responsible governmental entity. It is inappropriate to give directive and oversight responsibilities to a non-governmental body. In addition, the portion of section 8 that provides for compensation of committee members contains drafting errors and is defective.*

"Very clearly, the advisory functions spelled out in section 8 are beneficial to the effective operation of the program. With this message, I am directing the Department of Ecology to establish such a committee to perform the advisory functions provided for in section 8(5)."

ESSB 6203a: Authorizing Exemptions From Solid Waste Designations

The state's solid waste management laws are amended. 1) Beneficial Use of Solid Waste: The DOE may by rule exempt a solid waste from the permitting

requirements of those laws for beneficial use. In adopting the rules, the DOE must specify both the solid waste that is exempted and the beneficial use or uses for which it is exempted. The department must consider whether the material will be beneficially used or reused and whether the use will present threats to human health or the environment. 2) Exemptions for Waste Handling Facilities: The DOE may by rule exempt from solid waste handling permit requirements any category handling facility that it determines presents little or no environmental risk and meets the environmental protection and performance requirements required for other similar solid waste facilities. 3) Deference to Other Permits: The DOE must adopt rules describing when a jurisdictional health department may, at its discretion, waive the requirement that a solid waste permit be issued for a facility if other air, water, or environmental permits are issued for the same facility. This deference to other permits may be allowed only if the applicant and the health department demonstrate that other permits for the facility will provide a comparable level of protection for human health and the environment that would be provided by a solid waste handling permit. 4) Civil Penalties: The DOE may assess a civil penalty in an amount up to \$1000 per day per violation to any person exempt from solid waste permitting under these authorities who fails to comply with the terms and conditions of the exemption. Each violation is a separate offense and each day's continuance is a separate violation. Chapter 156, Laws of 1998.

SSB 6474a: Fertilizer Regulation

Requires after July 1, 1999, package labels on fertilizer to contain a statement that information is available on the Department of Agriculture's internet website regarding the components in the product. The department must post information contained in applications for fertilizer registration on the internet. Chapter 36, Laws of 1998.

ESSB 6497: Taking of Private Property

State agencies and local governments are required to make written findings and conclusions regarding government actions concerning the regulation of private real property. Vetoed by the Governor for the following reasons: *"Under current law the Attorney General has adopted guidelines for use by state agencies and local governments in evaluating whether proposed actions constitute an unconstitutional taking of private property, when they are planning under the Growth Management Act (GMA). ESSB 6497 would require state agencies and*

Bill Watch

local governments to address the Attorney General's guidelines and make written findings and conclusions as to whether a proposed action may result in an unconstitutional taking...

"Though well intended, ESSB 6497 would impose unreasonable administrative obligations on local and state governments and imply significant additional legal costs. In return it would make no improvement in the protection of private property rights..."

ESSB 6497 does not create better decision-making or more sophisticated constitutional analysis."

FAMILIES & CHILDREN

SHB 2556: Child Abuse Prevention and Treatment

Makes modifications to the state's child abuse statutes to allow the state to come into compliance with federal law. Requires members of community networks to identify in writing of any potential fiduciary interest in network activities. Mandates a study to determine the possibility of using citizen review panels to review child abuse complaints. Requires DOH and DSHS to develop a comprehensive plan to provide services to mothers who give birth to drug or alcohol affected infants and their children. Chapter 158, Laws of 1998. Partially vetoed by the Governor for the following reasons: *"This bill enacts changes in state law required to conform with federal mandates. It also addresses a number of other matters, including the Family Policy Council and Community Health and Safety Networks, citizen review panels for child abuse and neglect, a definition of "income" within the Basic Health Plan, and dependency matters related to drug- and alcohol-affected infants and their mothers.*

"I have vetoed the following sections of SHB 2556: Section 11. The 1994 Youth Violence Reduction Act describes specific roles and responsibilities for the Family Policy Council, and provides for representation from both the executive and legislative branches of government. Since the Legislature already has the authority to exercise its powers of oversight for the council, it is not necessary to amend the council's structure. Section 19 describes the requirements for testing an infant when a physician or nurse caring for the child believes that the infant was born drug-affected, for notifying DSHS, and for retaining the infant in a birthing facility or in a pediatric center during withdrawal. Section 26 is the comparable language for a newborn suspected of being alcohol-affected. I support the purposes of these sections. However, there are serious questions relating

to the efficacy of the medical approaches and the requirements that would be imposed by these sections. The activities and aims of sections 18, 20, 21, 22, 23, 24, 27, 28 and 39 are defined with reference to sections 19 and 26. Without these latter two sections, the former sections are left without purpose. I have other concerns about the above sections as well. The intent section, section 18, might be read to say that, beginning with the birth of a woman's third child, it is unreasonable to continue efforts to reunify drug-affected babies with that mother. I am certain that the sponsors of this bill did not intend for that interpretation. Sections 20, 21, 23, 24, 27 and 39 are premised upon a foundation that giving birth to a drug-affected baby is sufficient to establish dependency. This foundation is not supported in RCW 13.34, the dependency statutes. These sections need to be crafted better to work with RCW 13.34. Sections 22 and 28 are contrary to Civil Rule 41(a) which permits a plaintiff to have an action dismissed by the court. I urge the sponsors of this bill to work with the appropriate medical professional organizations and state agencies to perfect this legislation."

HB 3103: Newborn Screening

Directs the department of health, in consultation with appropriate medical professionals, to develop screening criteria for use in identifying pregnant or lactating women addicted to drugs or alcohol who are at risk of producing a drug-affected baby. Chapter 93, Laws of 1998.

FISCAL

SHB 2724: Enforcement Moneys/Legislative Oversight

Provides that no state officer or employee may expend moneys received from fines, penalties, forfeitures, settlements, court orders, or other enforcement actions except as provided in a specific appropriation by law. Vetoed by the Governor for the following reasons: *"This legislation is in response to my veto last year of Engrossed Senate Bill No. 6039. ESB 6039 provided that any fine or regulatory assessment imposed in an enforcement action under the insurance code must be collected by the Department of Revenue. In my veto message, I asked that a comprehensive assessment be done throughout state government and that a uniform system be proposed to address any identified problems.*

No widespread or systemic problems were identified, and Substitute House Bill No. 2724 does not represent the uniform system that would be needed to address such problems had they been found. Instead, the bill would

provide a general rule requiring an appropriation of these types of funds, and would make several exceptions for some agencies but not for others.”

ESSB 6108a: Supplemental Operating Budget

Appropriations from various agencies are modified, with no net increase in appropriations from the state General Fund. \$200 million from General Fund revenues is deposited in the state's Emergency Reserve Fund. Chapter 346, Laws of 1998. Partially vetoed by the Governor for reasons including: “... *Section 219(28), Pages 84 and 85 (For the Department of Health);...-E2SHB 2345, Regulatory Reform. This subsection stipulates that the funding provided to implement Engrossed Second Substitute House Bill 2345, Regulatory Reform, will lapse if sections 1, 3, 4, 10, 11, and 12 are not enacted. I have vetoed these sections of Engrossed Second Substitute House Bill 2345 because I do not believe that these provisions are in the best interest of the state. Therefore, I have also vetoed these sections of the appropriations act to eliminate confusion regarding the expenditure authority for this agency.*”

PROFESSIONAL/FACILITIES LICENSING

2SHB 1618a: Impaired Physician Programs

Makes technical revisions to provisions relating to treatment programs for impaired physicians. Chapter 132, Laws of 1998.

ESHB 1769a: Electronic Transfer of Prescription Information

The electronic communication of prescription information is authorized by law. Electronic communication of prescription includes, original or refill information for legend drugs and controlled substances, Schedule III to V, between a prescribing practitioner and a pharmacy, or between pharmacies. No intervening person between a physician or naturopath and a pharmacy can have access to the prescription drug order. Electronic systems must be approved by the Board of Pharmacy, except for currently used FAX equipment. The board must maintain a list of approved systems.

Electronically communicated prescription information must allow the opportunity for health prescribers to indicate their preferences for substituting therapeutically equivalent generic drugs authorized by law; protect the confidentiality of patient prescription information from unauthorized disclosure; and assure

accuracy and authenticity of prescriptions. Chapter 222, Laws of 1998.

SHB 2364: Health Professions Administrative Procedures

Revises RCW 43.70.280 to extend the authority of the secretary of health to write administrative rules for the health professions from July 1, 1998 to March 1, 1999. Chapter 29, Laws of 1998.

HB 2452: Medication Assistance

Allows individuals in community-based settings regulated by DSHS and DOH to self-administer legend drugs or controlled substances. Amends the Legend Drug Act to define “medication assistance” in those settings. The assistance is to be performed by non-credentialed practitioners. Assistance takes the form of: reminding or coaching the individual, placing the medication in the individual's hand, or helping in the preparation of drugs for self-administration, or other means to be defined by DOH in rule. Community-based settings include adult family homes, boarding homes, and residential care settings. Chapter 70, Laws of 1998.

SHB 2688a: Hearing Instrument Fitters and Dispensers

Revises provisions of chapter 18.35 RCW to modify the educational requirements for licensure as a hearing instrument fitter/dispenser. Declares that the new educational requirements take effect December 31, 2002. Revises provisions of chapter 18.35 RCW to modify the educational requirements for licensure as a hearing instrument fitter/dispenser. Repeals the hearing instrument fitter/dispenser apprenticeship program. Chapter 142, Laws of 1998.

HB 2788: Nursing Assistant Training

Provides that the nursing care quality assurance commission shall direct the nursing assistant training programs to accept some or all of the skills and competencies from the curriculum modules towards meeting the requirements for a nursing assistant certificate. A process may be developed to test persons completing modules from a caregiver's class to verify that they have the transferable skills and competencies for entry into a nursing assistant training program. Directs the Department of Social and Health Services (DSHS) and the nursing care quality assurance commission to work together to develop an implementation plan by December 12, 1998. Chapter 85, Laws of 1998.

Bill Watch

EHB 2920a: Counselor Continuing Education

The Secretary of Health is required to establish continuing competence requirements for certified counselors by rule. There must be at least 36 hours of continuing education during the two-year reporting period preceding the renewal of certification, including subjects in professional ethics and law. Certified counselors are responsible for obtaining thirty-six clock hours of continuing education during the two-year reporting period immediately preceding renewal of certification, at least six hours of which must be in professional ethics and law. Chapter 32, Laws of 1998.

HB 2990: Boarding Home Accreditation

Recognizes the need to involve the boarding home industry, the consumers of assisted living and retirement services, the long-term care ombudsman, and state regulatory agencies in the collaborative process of developing standards and procedures for accreditation of licensed boarding homes. Supports an industry-funded pilot program prior to changing or developing new standards for boarding home regulation. Chapter 92, Laws of 1998.

SHB 2998: Privately owned defibrillators

Provides a limited immunity for use of semiautomatic external defibrillators. Chapter 153, Laws of 1998.

2SSB 6168a: Temporary Worker Housing

Directs DOH to adopt by rule a temporary worker building code in conformance with the temporary worker housing standards developed under the Washington Industrial Safety and Health Act, rules adopted by the State Board of Health, and the designated guidelines. Requires that, by December 1, 1998, the Department of Labor and Industries shall adopt Rules requiring electricity in all temporary worker housing and establishing minimum requirements to ensure the safe storage, handling, and preparation of food in these camps, regardless of whether individual or common cooking facilities are in use. Establishes a farm worker housing finance program within the Department of Community, Trade, and Economic Development. Chapter 37, Laws of 1998.

2SSB 6544a: Adult Family/ Boarding Homes

The Department of Health, the Department of Social and Health Services, the Nursing Care Quality Assurance Commission and representatives of other long-term care services are directed to meet with boarding home and adult family home providers and resident groups to develop recommendations on

training standards for caregivers and administrators in adult family homes and boarding homes, and in-home care providers. Their report is due to the Legislature by December 1, 1998. The proposal must include recommended training standards for both administrators and staff serving residents with a diagnosis of dementia, mental illness or developmental disability. Training recommendations must take into account the following factors: availability and affordability of training; potential costs to DSHS and private providers; what types of training could transfer; competency testing; and practical and clinical coursework. Disclosure language requires all facilities receive a full assessment of the health condition of each resident before admission. Specific required information is defined. These assessments are required before admission except in cases of emergency placements. Facilities must also fully disclose to potential residents what items and activities they are capable of arranging. Facilities must also inform each resident in advance of changes in services, charges for services, or changes in the facility's rules. Facilities with six or fewer residents may make changes with a 14-day notice. The Division of Developmental Disabilities (DDD) must also conduct a study of current administrator and resident caregivers' training for specified programs and make recommendations to coordinate all training. Chapter 272, Laws of 1998. Partially vetoed by the Governor for the following reasons: *"2SSB 6544 takes care of many issues dealing with adult family homes, boarding homes and long-term care, and, most importantly, transfers the oversight of boarding homes from the Department of Health to the Department of Social and Health Services. This is well-conceived and ambitious legislation, and will go far toward ensuring the safety and quality of care for residents of our adult family and boarding homes."*

"Sections 18, 19, 20, and 21 would specify when residents of boarding and adult family homes who become bedbound as the result of illness must be seen by a licensed practitioner, and define those practitioners and their duties. While I agree with the intentions of those sections, they would conflict with current patients' rights to refuse treatment and to maintain their preferred residences. Also, those sections are unclear as to provider and resident responsibilities when disagreements arise from such conflicts. Additionally, the impact on people's abilities to pay for additional service has not been analyzed. Before implementing changes in care requirements, additional comment needs to be sought from residents, families and all interested parties, as well as the joint task force created by this bill."

SSB 6550a: Chemical Dependency Professionals

A certification program is established for chemical dependency professionals administered by the Department of Health. Persons practicing chemical dependency counseling may represent themselves as “certified chemical dependency professionals” by meeting specified certification requirements in settings approved by DSHS. Applicants must pay a certification fee, pass an examination, and satisfy the education and experience requirements approved by the Secretary of Health in consultation with the Chemical Dependency Certification Advisory Committee. The secretary is authorized to approve educational programs and alternative training. Chemical dependency counselors treating patients in settings other than programs approved by the DSHS may not represent themselves as Chemical Dependency Professionals. Chapter 243, Laws of 1998.

REGULATORY REFORM

E2SHB 2345: Administrative Law Revisions

Revises provisions relating to administrative law rule-making and hearing procedures. The time period for JARRC to decide whether to impose the significant legislative rule requirements is extended from 45 to 75 days. Agencies may file proposals for the expedited repeal of rules at any time, instead of only twice a year. If JARRC receives a written objection within 90 days after publication, JARRC must determine whether the agency complied with the requirements. Chapter 280, Laws of 1998. Partially vetoed by the Governor for the following reasons: *“I am deeply committed to meaningful regulatory improvement in state government and have demonstrated that commitment by undertaking a major reform effort under Executive Order 97-02. That program has already resulted in the elimination of nearly 2,000 rules and the rewriting of hundreds of regulations in plain English. Agencies are also eliminating regulatory inefficiencies, improving customer service, reducing conflicting regulations, using negotiated rule making, and expanding effective outreach and voluntary compliance among the regulated community. Those are examples of meaningful regulatory reform, and I welcome proposals that will further those goals.*

“Unfortunately, most of the provisions in E2SHB 2345 do not further those goals. Sections 1, 3, and 4 would mandate additional notification, meetings, and other requirements for agencies, and would add costs and complexity to the regulatory process. They would also result in additional bureaucratic red tape, and duplicate information and

services that are already being provided under current law and practices. In some cases, the language in those sections is ambiguous regarding who should be notified about what actions. Those sections would only create more opportunities for litigation regarding the meaning of the requirements and the extent to which agencies may or may not have complied. Proponents of this bill did not provide hard evidence of system-wide problems that would justify these changes. Anecdotes and disagreements with individual agencies about a rule should not be used as a rationale to make costly changes in the APA that affect all agencies.

“Section 8 of the bill would require a rule review process that is similar to that already established in E.O. 97-02. Under that executive order, all agencies are conducting rule review in an efficient and orderly manner, and that review is yielding results. Statutory rule review is, therefore, unnecessary and could open up new opportunities for litigation on technical grounds relating to the adequacy of the reviews. Sections 10 and 12 of the bill would require the Office of the Insurance Commissioner to use adjudicators from the Office of Administrative Hearings. I vetoed the same sections after the 1997 legislative session, and I am not aware of any evidence that would justify changing the current adjudication process and singling out the Insurance Commissioner for different treatment. Section 11 of the bill would require agencies to prepare local government economic impact statements on rules that impose any costs on local governments. While funding was made available for this program, the Legislature chose to condition the availability of those funds on enactment of sections 1 and 4 of the bill, which I have vetoed. Finally, section 13 of the bill is a “null and void” clause that would nullify the entire act if funding is not made available. The supplemental budget act conditions funding for portions of this bill on the approval of certain sections. Since I am vetoing those necessary sections, funding will disappear. Section 13 must, therefore, be vetoed in order to preserve sections in this bill that I have approved.”

SSB 6575: Administrative Rules Review

Expands the power of the joint administrative Rules Review committee. Chapter 21, Laws of 1998.

TOBACCO

2ESHB 1746: Makes it illegal for a minor to possess or attempt to possess tobacco

Requires minors found guilty of possession or purchase of tobacco to pay a fine and perform four hours of community service. The court may also order the minor into a tobacco cessation program. Deletes the authority

Bill Watch

of local health departments, and adds the authority tobacco licensees to grant limited immunity to minors to participate in compliance activity. Chapter 133, Laws of 1998.

SB 6483: Cigarette and Tobacco Tax Enforcement

Authorizes the transfer of enforcement of cigarette and tobacco taxes to the liquor control board. Chapter 18, Laws of 1998.

WELFARE REFORM

ESSB 6418a: Support Enforcement

A seven-day time period for remittance of withheld earnings is specified. Parents must provide certain information to the state child support case registry, and addresses of recipients are protected, under certain circumstances. The location of a noncustodial parent

is protected upon request. Penalties for false reporting or failure to report new hires are specified and increased. Federal employer identification numbers are used by employers in reporting, replacing various other identifiers. The Governor and the Department of Social and Health Services must seek a waiver from Social Security number tracking provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act. Implements technical amendments to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Chapter 160, Laws of 1998. §



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